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April 8, 1997

Federal Communications Commission
Office of Secretary

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CS Docket No. 97-55

Dear Sir/Madam:

Enclosed is an original and ten copies of the comments by the Public Broadcasting Service ("PBS") on the Industry Proposal for Rating Video Programming.

We have also sent a diskette to Rick Chessen of the Cable Services Bureau.

Please return one (1) copy marked "Received" in the enclosed, postage prepaid envelope. Should you have any questions or need additional information, please feel free to call me at 703/739-5053.

Cordially,

Kris Rao
Assistant General Counsel

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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	C.S. Docket No. 97-55
)	
Industry Proposal for Rating)	
Video Programming)	

To: The Commission

Comments of
Public Broadcasting Service
on Industry Proposal for Rating Video Programming

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To: The Commission

**Comments of
Public Broadcasting Service
on Industry Proposal for Rating Video Programming**

The Public Broadcasting Service ("PBS") submits these comments in response to the FCC Public Notice, released February 7, 1997 ("FCC Notice") seeking comment on the joint proposal of the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America for a voluntary ratings system for video programming (the "Proposed Industry System"). Specifically, the FCC has requested comments as to whether the Proposed Industry System represents an "acceptable" system for rating video programming that contains sexual, violent or other indecent material about which parents should be informed before it is displayed to children, as required by Section 551(e) of the Telecommunications Act of 1996 (the "1996 Act").

Introduction

PBS is a private, nonprofit corporation organized by the licensees of the nation's 348 public television stations. PBS provides national program distribution and other services to its member stations, and frequently speaks for the public television community in matters relating to the distribution of programming. These comments address the issue of whether the Proposed Industry System represents an acceptable standard for rating potentially objectionable programming to assist parents in making viewing decisions. In addition, the comments address the broader issue of what information broadcasters, as guardians of a public trust, should provide to their viewers about the programs that they air.

- I. PBS believes the ratings system as currently implemented is too vague and unevenly applied to accomplish its professed objectives. The rating categories lack clarity; viewers are not provided with sufficient content-specific information; programs of particular value to children are not identified; and the "TV-PG" rating appears to have become a catch-all category.

Section 551(e) of the 1996 Act provided video programming distributors a period of one (1) year from the Act's effective date (February 8) to devise a voluntary set of rules for rating potentially objectionable

video programming to be evaluated by the Commission. The industry consortium submitted the Proposed Industry System to the Commission on January 17, 1997. On or about January 1, 1997, many television programmers began airing icons at the start of programs using the Proposed Industry System ratings and including the ratings in programming guides.

PBS chose not to implement the Proposed Industry System when it was launched by the commercial networks and some cable services for several reasons: (i) the industry system appeared to serve mostly the interests of networks themselves, and did not reflect the concerns of parents' groups and other public interest advocates who had attempted to participate in devising the system; and (ii) PBS was not convinced that the Proposed Industry System represented the best that could be achieved, and believed that PBS viewers and member stations would be better served by further efforts to improve the system.

Three months hence, PBS is even more convinced that the Proposed Industry System needs to be improved if it is to accomplish its professed objectives. After several months of experience under the Proposed Industry System, several facts are clear: First, the Proposed Industry System's definitions are too vague and equivocal. The intermediate TV-PG and TV-14 classifications, for example, are defined as follows:

“TV-PG - This program may contain some material that some parents would find unsuitable for younger children.”

“TV-14 - This program may contain some material that many parents would find unsuitable for children under 14 years of age.”

Such equivocal language permits the conclusion that a program also “may not” include unsuitable content. Why such vagueness? If the purpose is to assist parents and viewers by more fully informing them, why not be clear about program content? The on-screen ratings icons employed to date, moreover, remain on the air for only 15 seconds at a time. This brief glimpse will be insufficient to assist many viewers. The icons should remain on screen for a longer period.

In short, PBS believes that the Proposed Industry System does not go far enough in providing clear and relevant information to help parents and families make informed viewing decisions. Since nothing prevents broadcasters from providing clear and specific content advisories urging parental guidance where necessary, PBS advocates clearer content descriptions. PBS believes, moreover, that any ratings system should direct parents to children’s programming of positive educational value. These issues are discussed in detail in Sections II and III, respectively, below.

A final defect of the present ratings system is one of practice rather than design. So far, more than seventy percent (70%) of rated programming designed for a general audience has received the relatively benign TV-PG rating. As recent video testimony on Capitol Hill has made dramatically clear, many programs containing violent and sadistic images, sexually suggestive material and/or offensive language beyond what most reasonable parents would consider appropriate for a TV-PG rating have fallen within this far-reaching classification.¹ If the TV-PG rating becomes such a catch-all, lacking any clear or specific meaning upon which parents and viewers can rely, the ratings system will breed cynicism rather than respect, and will fail to achieve its purpose.

PBS believes that no ratings system can be considered fully acceptable unless it employs clear definitions, provides specific advisories urging parental guidance where necessary, directs parents to children's programming of positive educational value, and rates the programs consistently and appropriately by those definitions.

¹ See "The TV Ratings System" video, Children Now, February 21, 1997.

II. Broadcasters should strive to provide more information, rather than less, to their viewers about the programs that they air, and should take additional programming measures that are in the public interest.

The 1996 Act provides that the Commission shall either declare the Proposed Industry System acceptable or establish its own system. In either case, the 1996 Act requires broadcasters to transmit ratings from the system in use on the vertical blanking interval of its television signals that will interface with blocking devices ("V-Chips") so that the V-Chip can "read" the rating and block programs bearing such rating. This requirement will go into effect at such time as the Commission has established corresponding rules, but in no event earlier than February 8, 1998.

Technological constraints will undoubtedly limit the amount of ratings information that can be transmitted in order to interface with the V-Chip. PBS believes that, regardless of what ratings system is ultimately employed, these V-Chip activated-ratings should serve only as a starting point for programming-related information that should be provided by broadcasters to their viewers.

Broadcasting is a public trust. Unlike their counterparts in the motion picture industry, broadcasters have been specifically charged by

law to act "in the public interest." It is surely with the public interest to provide specific information about the nature of program content.

Throughout its 27-year history, PBS has taken a variety of measures designed to offer quality programming to its viewers, while providing content-based information regarding any potentially objectionable material included in the program and thus minimizing the effect that any such material may have on children. Specifically, PBS:

- (1) seeks to avoid gratuitous violence and sexual material in programming, including such material only when it serves a significant narrative or informational purpose;
- (2) airs adult programming only during later hours, where children's viewing is presumed to be at its lowest levels;
- (3) provides its member stations with content "flags" alerting the stations that such programs contain content that parents or other viewers might find objectionable;
- (4) offers, where appropriate, alternative edited versions of certain programs that might be deemed objectionable by some stations in the original version;
- (5) provides and recommends to its member stations content advisories at the start of programs specifically describing the

nature of potentially objectionable content and warning parents and other viewers; and

- (6) allows member stations to make the final decisions about whether to air a program or to include a content advisory.

PBS believes that these measures both ensure the delivery of quality programming and allow parents to make a more informed choice regarding their children's viewing options. PBS believes that the ratings system used in concert with the V-Chip should serve as a floor, rather than a ceiling, and that the Commission should encourage broadcasters to air content advisories as part of the ratings system that is ultimately adopted. In addition, by employing the measures outlined above, broadcasters can demonstrate their commitment to serving the public, and can earn rather than damage the public's trust.

- III. Children's programming represents a special category, and any ratings system should include a special "educational/informational" label that directs parents to programming of positive educational value.

The Proposed Industry System includes two categories relating to programs designed solely for children: TV-Y (programs appropriate for all children) and TV-Y7 (programs designed for children age 7 and above).

Thus, the Proposed Industry System functions solely as a barrier to warn parents away from material that may not be appropriate for children under the age of 7. While this approach may be appropriate for programs designed for a general audience, PBS believes it falls short of the mark when applied to children's programming. Parents need a beacon that will quickly guide them to children's programming of special educational merit.² PBS recommends that the ratings system used to activate the V-Chip be supplemented to include a special designation for children's programs of special "educational/informational" value. Such programs would be noted by the use of a distinctive icon, which would be aired together with the icon incorporating the V-Chip ratings and included in program listings and promotional materials. The educational/informational icon would be given to a program on a voluntary basis by its distributor.

The Commission has recognized the value of children's programming as evidenced by the core children's programming public identification, record keeping and renewal requirements recently imposed

² President Clinton recognized this need, stating, "It is not enough for parents to be able to tune out what they don't want their children to watch. They want to be able to tune in good programs that their children will watch." Remarks of President Clinton to television and entertainment industry executives at the White House, February 29, 1996.

on licensees.³ Section 73.671 of the corresponding rules defines core children's programming as programming that is: (1) intended to serve the educational and informational needs of children 16 years of age or younger as a "significant purpose" of the programming; (2) aired between 7:00 a.m. and 10:00 p.m.; (3) regularly scheduled on at least a weekly basis; and (4) at least 30 minutes in length.

PBS believes that in creating a beacon for parents to locate children's programming of real educational value, clear and definitive criteria are required. Specifically, PBS suggests that any program or series identified as "educational or informational" should:

- (1) have defined educational goals and objectives;
- (2) involve subject-matter experts and educational researchers in its design and production;
- (3) be targeted to a specific age group (such as 6-to-8 year-olds, not simply children under or over 7);
- (4) create educational support materials;
- (5) conduct research to ascertain educational effectiveness;
- (6) address at least one of nine subjects essential for school readiness -physical/motor skills development, social/emotional skills development, critical

³ 47 CFR Sections 73.3500, 73.3526(a)(8)(iii), 73.671, 73.672, 73.673.

thinking/problem-solving skills development,
language/literacy skills development, cognitive skills
development, science study, life skills development,
cultural/social diversity appreciation and understanding, and
music/art appreciation and performance; and

- (7) in the case of programs for children under age 6, be
uninterrupted by commercials.

PBS has consistently advocated the inclusion within any television ratings system of a special classification for children's programs of such demonstrated educational merit.⁴ PBS views this educational beacon as a critical component in any ratings system designed to help parents make informed viewing decisions for their families.

Conclusion

In its consideration of this matter, the Commission faces a serious and troublesome dilemma. To find the Proposed Industry System unacceptable would confront the Commission with the possibility of devising - and imposing - an official, governmentally-invented system. To attempt such an outcome could embroil the Commission in protracted

⁴ Speech by PBS President Ervin Duggan, "Television: A Friend of the Family?", delivered to the UCLA Center for Communication Policy, Los Angeles, California, May 30, 1996; Statement of Ervin Duggan Regarding the V-Chip Implementation Plan, December 19, 1996.

controversy and litigation, and would raise serious First Amendment issues.

To enshrine the Proposed Industry System as “acceptable,” however - when it clearly falls short of the clarity and effectiveness that a proper ratings system should have - would also be undesirable, and would invite charges that the Commission is betraying the very public interest it seeks to uphold.

PBS believes that the Commission can avoid either of these undesirable outcomes by declaring the Proposed Industry System “provisionally acceptable” and specifying a period of further evaluation lasting one year to eighteen months. Such a period of evaluation would make possible not only a more complete analysis of the practical workings of the system; it would also create an environment in which changes and improvements could be recommended and put into effect.

At the end of the provisional one year or eighteen months, the Commission could call for further public comments and suggestions and, based on these, recommend to the industry improvements in the ratings system which might make it more useful and effective. The Commission’s recommendations, while not legally binding, would carry considerable influence, and might play an important and constructive role in making a

flawed system better, without the legal and political questions that a more coercive approach might raise.

PBS urges the Commission, therefore, to find the industry's proposed ratings system "provisionally acceptable," and to impose a period for further evaluation and possible improvement. At the conclusion of this period, the Commission should seek the views and comments of the viewing public, as well as interested industry parties, concerning the system's strengths and weaknesses. This process would allow the public, concerned advocacy groups and the industry a broader opportunity to shape a ratings system based on facts, research, viewers' needs and preferences, and actual experience rather than one based mostly on speculation, self-interest and political bravado.

In the effort to shape the best possible system, PBS will be an interested and willing participant. As the effort goes forward, moreover, PBS and its member stations will seek to provide full content advisories to its member stations and their viewers. PBS will seek to provide parents with an educational rating that has genuine and objective meaning, and will urge its colleagues in broadcasting to include these features in any ratings system that they offer to their viewers.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Paula A. Jameson / s/ Kris Rao". The signature is written in a cursive, flowing style.

Paula A. Jameson
Senior Vice President,
General Counsel and Secretary

Kris S. Rao
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